IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

CRP.No. 920 of 2004()

AGAINST THE ORDER DATED 05/06/2004 IN IA.NO.1890/2003 IN OS.461/1997 of MUNSIFF COURT, PUNALUR
.....

REVN. PETITIONER: RESPONDENT/PLAINTIFF

RADHAMMA B.,
GANAPATHY VILAKOM VEEDU,
POREDOM, VELLUPPARA MURI,
CHADAYAMANGALAM VILLAGE.

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.
SRI. K. SURESH BABU.

RESPONDENTS: PETITIONERS/DEFENDANTS
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1. SOMASEKHARAN NAIR,
KUNNATHU VEEDU,
AYYOOR MURI, EDAMULACKAL VILLAGE.

2. SASIDHARAN NAIR,
OF DO. DO.

BY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A. 2248/04 IN

C.R.P. NO. 920 OF 2004

DISMISSED

9/4//07 **SD/- M.N. KRISHNAN, JUDGE.**

[True Copy]

M.N. KRISHNAN, J.

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C.R.P. NO. 920 OF 2004

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Dated this the 9th day of April, 2007.

O R D E R

This revision is preferred against the order of the learned Munsiff in I.A.1890/03 in O.S.461/97. The learned Munsiff by his order had condoned the delay holding that the connected matter has been restored by the same Court. The learned counsel for the revision petitioner has made available before me the order in I.A.771/03 in O.S.415/97. The trial court has dismissed that application. There had been also a reference to an order in W.P.C.34818/03. In the execution petition there was a prayer for stay and in the above said O.P. this Court directed stay of all further proceedings in the execution till the disposal of Ext.P3 therein which is I.A.771/03. Subsequently, the same has been disposed of by the Court dismissing the same. The approach of the learned Munsiff is totally erroneous and he has not factually understood the correct state of affairs prevalent on the date of passing the order in the I.A. What has happened is the connected suit has also been disposed of by not condoning the delay for restoration of the suit and therefore the connected suit was not

pending. The judgment of the trial court stating it has been allowed is erroneous. Further there is no prosecution on behalf of the respondents of this revision petition. When the connected case is disposed of and nothing is brought before the Court to show that the party has resorted to any appellate remedy available as envisaged by law, it goes without saying that the present suit is also to have the same fate and therefore the petition to condone the delay of 858 days cannot be allowed and therefore the order in I.A.1890/03 is set aside and the delay condonation application is dismissed.

I am informed that in the light of the stay order the suit has not been restored to file. It is also recorded and the C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-